

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX  
APPELLATE DIVISION

MARK L. MILLIGAN,	)	
	)	D.C. CIV. APP. NO. 1999/136
Appellant,	)	
v.	)	Re: Super. Ct. Civ. 698/1995
	)	
DAHLIA KHODRA,	)	
Appellee.	)	
_____	)	

O R D E R

**THIS MATTER** comes before the Court on motions by the appellant for costs and for leave to file the same out of time. The appellee opposes both motions.

Under the applicable rule, a litigant may obtain an award of costs only if an itemized bill of costs is submitted within fourteen days after entry of judgment. See V.I.R. App. P. 30(b). The rule further mandates that any untimely bill of costs be denied, "unless a motion showing extraordinary circumstances is filed with the bill." *Id.* Given these precepts, this Court must deny the appellant's motion for costs.

In support of his motion, the appellant contends that his late filing resulted from the delay in the docketing of the opinion and order resolving the appeal. He contends that, although filed on September 30, 2004, the memorandum opinion and order were not docketed until June 8, 2005, and not received in his St. Croix Office until about June 18, 2005. These facts, the

appellant contends, qualify as extraordinary circumstances which excuse his June 27, 2005, motion for attorney's fees and costs. The Court disagrees.

As the appellant notes, the record reflects some delay in the docketing of the memorandum opinion and order resolving this appeal. However, after that docketing omission came to the attention of the court, an order was entered on June 8, 2005 ordering the Clerk to enter the September 30, 2004, memorandum opinion and order into the official docket as of June 8, 2005. That order also thereby directed the Clerk to circulate the June 8, 2005, order and the September 30, 2004, memorandum opinion and order, to the parties indicated in a distribution list included in the June 8, 2005, order. The order further directed that the case be reopened to permit any appeal from the date the Court's latter order was entered on the record.

In accordance with the Court's order, the September 30, 2004, memorandum and order and the June 8, 2005, order were recorded as filed on June 10, 2005. The clerk further initialed and dated the attached distribution list on the Court's order, indicating that the relevant materials were distributed on June 10, 2005. Accordingly, the appellant's motion for costs was required to be filed no later than Friday, June 24, 2005.

The appellant acknowledges that the Court's opinion and orders were entered on the record on June 10, 2005, and "may have been deposited in the counsel's District Court depository

sometime thereafter." However, he argues the opinion and orders were "not actually received by Appellant until about June 18<sup>th</sup>." Therefore, the appellant argues he was deprived of timely personal notice, which precluded him from meeting the filing deadline set by Rule 30(b).

In light of the record showing that the relevant opinion and orders were filed on June 10, 2005, and distributed to the appellant, and the appellant's acknowledgment that those documents were delivered to his box at the Court, his admitted failure to retrieve those documents from his box until approximately June 18, 2005<sup>1</sup> does not constitute extraordinary circumstances warranting leave to file an untimely motion for costs. In view of the foregoing, it is hereby

**ORDERED** that the Appellant's motion for costs and for leave to file the same out of time is **DENIED**.

**SO ORDERED** this 10<sup>th</sup> day of January, 2007.

**FOR THE COURT:**

/s/  
**CURTIS V. GÓMEZ**  
Chief Judge

**A T T E S T:**  
**WILFREDO F. MORALES**  
Clerk of the Court

By: /s/  
Deputy Clerk

**Copies to:**

Mark L. Milligan, Esq.

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<sup>1</sup> It should be noted that June 18, 2005 was a Saturday.

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